

### **Remarks**

Reconsideration of the application in view of the above amendments and following remarks is requested. Claims 1-6 and 22 are now in the case. Claims 1-2 are allowed. Claims 6 and 22 have been amended. Claims 7-21 have been withdrawn pursuant to a restriction requirement. Applicants assert that the present amendment adds no new matter.

Applicants reserve the right to prosecute claims to cancelled subject matter in one or more continuing applications.

### **Objections to the Specification**

#### **Sequences:**

The Examiner objected to the application because it does not include the statement "the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing" and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(f), 1.821(g), 1.825(b) or 1.825(d).

Applicants refer the examiner's attention to the Application Transmittal form.

#### **Drawings:**

The Examiner has advised that a the application lacks a formal drawing.

Applicants have enclosed the formal drawing for Figure 1.

#### **Claims:**

The Examiner objected to Claim 6 and suggested amending the claim to read IL-21 protein instead of IL-21 proteins.

Applicants have amended Claim 6 as the Examiner suggested.

### **Rejection Under 35 U.S.C. §112, First Paragraph**

The Examiner rejected claims 3-6 and 22 under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention.

It is the examiner's contention that under 37 CFR §1.808, an affidavit or declaration stating that the expression vector pTAP337 and *E. coli* strain zGOLD1 have been deposited at the American Type Culture Collection is necessary. Applicants have provided an affidavit stating that pTAP337, designated as PTA-4853 and zGOLD1, designated as PTA-5698, have been deposited under the terms of the Budapest Treaty and that all restrictions imposed by the depositor on the availability to the public of the deposited material will be irrevocably removed upon granting of the patent. Applicants have enclosed the affidavit with the present Response to the Office Action.

Applicants need to correct the inventorship of the present application. Applicants request that Tracey Pownder who was not included in the original declaration be added. The error arose without any deceptive intention on the part of the person who through error was not named as an inventor. Included is a statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part. Included is a declaration by the actual inventors as required by § 1.63, and the processing fee set forth in § 1.17(i); and the written consent of the assignee .

In addition prosecution of the present application has resulted in the amendment or cancellation of claims so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the nonprovisional application, applicants are requesting deletion Hong Y. Liu, Karen S. de Jongh, and Jeffrey D. Meyer who are not inventors of the invention being claimed. As is required included are a request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and the processing fee set forth in § 1.17(i).

On the basis of the above amendments and remarks, Applicants believe that each rejection has been addressed and overcome. Reconsideration of the application and its allowance are requested. If for any reason the Examiner feels that a telephone

conference would expedite prosecution of the application, the Examiner is invited to telephone the undersigned at (206) 442-6672.

Respectfully Submitted,



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Enclosures:

Amendment Fee Transmittal  
Petition to Correct Inventors  
Supplemental Declaration and Power of Attorney  
Statement of Tracey A. Pownder  
Consent of Assignee  
Request to Correct Inventorship  
Information Disclosure Statement & PTO-1449  
5 References

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